

**US Army Corps
of Engineers®**

SPECIAL PUBLIC NOTICE

Application for a Permit

**To Establish a Regional General Permit for
the Coronado Cay Community (Cays) to
Replace Existing Dock Structures Within the
Cays Home Owners Association (HOA)**

APPLICATION FOR PERMIT

LOS ANGELES DISTRICT

Public Notice/Application No.: SPL-2008-00645-KJC

Comment Period: October 24, 2008 through November 22, 2008

Project Manager: Kari Coler; 760-602-4834; Kari.J.Coler@usace.army.mil

Applicant

Larry Peterson
Coronado Cays Homeowners Association
505 Grande Caribe Causeway
Coronado, California 92118

Contact

Jennifer Pettis
Anchor Environmental CA, L.P.
28202 Cabot Road, Suite 425
Laguna Niguel, California 92677

Location

Several addresses within the Cays HOA, located at lat. 32°37'25.89 N; long. -117°07'52.21 W. A comprehensive list of the project sites is not available at this time.

Activity

To replace existing docks within the Cays HOA (see attached drawings). Individual property owners may have an increase in coverage, however the Cays HOA will maintain an overall net zero increase in coverage. The applicant states that several hundred individual Cays homeowners intend to replace their existing docks and gangways in the next few years. The proposed Regional General Permit (RGP) proposes to streamline the process to authorize the proposed work. The duration of the proposed RGP is for 5 years. For more information see page 3 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under . Comments should be mailed to:

LOS ANGELES DISTRICT, CORPS OF ENGINEERS
SAN DIEGO SECTION OFFICE
6010 HIDDEN VALLEY ROAD, SUITE 105
CARLSBAD, CALIFORNIA 92011

Alternatively, comments can be sent electronically to: Kari.J.Coler@usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- Due to the large number of docks to be replaced and the use of jetting for pile replacement, the applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

Coastal Zone Management- The applicant has provided documentation that the City of Coronado (City) Coastal Permit Administrator determined that the proposed project is categorically exempt from coastal permit requirements. The property is located within an area designated by the California Coastal Commission as under city of Coronado Coastal Permit authority but appealable to the California Coastal Commission. Additionally the applicant provided a letter from the California Coastal Commission stating that the City's permit was not appealed and therefore the City's action is final.

Cultural Resources- The Integrated Natural Resources Management Plan (*September 2000*) states that the Cays was constructed over a previous city burn dump site, adjacent to mudflats and salt marsh in 1968. Therefore, at this time, none of the existing structures would be eligible for listing under the Register of Historic Places due to their age. The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. The Corps does not believe that any previously undocumented cultural resources would be impacted by the activities proposed under this RGP, the replacement of existing docks.

Endangered Species- Preliminary determinations indicate that the proposed activity may affect federally-listed endangered or threatened species, including the California least tern (*Sterna antillarum browni*), the brown pelican, (*Pelecanus occidentalis*), and the green sea turtle (*Chelonia mydas*). The applicant would like to work during nesting season and therefore has proposed to jet piles in place exclusively during nesting season to reduce the potential for noise impacts. The applicant has proposed to use silt curtains at all times when installing and removing piles to control turbidity during in-water construction. With these best management practices employed during construction, the Corps believes that the proposed project may affect but is not likely to adversely affect the federally-listed species described above. The Corps is requesting concurrence from the U.S. Fish and Wildlife Service and National Marine Fisheries Service that the proposed project may affect but is not likely to adversely affect any federally listed species.

Navigation- The activities proposed would involve the replacement of existing docks with only minimal expansions in size authorized. The replacement dock floats would be offloaded into the water via crane. A work boat will be used to push the floats to the work site. A barge would be used to transport and install piles. The Corps anticipates only minimal impacts to navigation within the vicinity of each individual dock replacement.

Caulerpa taxifolia & Eelgrass Survey- Some eelgrass has been mapped within the area under control of the Cays HOA. A preliminary eelgrass survey was conducted within the Cays HOA in areas likely to contain eelgrass. A map is included along with this public notice. Proposed dock replacement projects that would likely result in shading impacts to eelgrass will not be authorized by the proposed RGP. Applicants applying to use the RGP will be required to include a *Caulerpa taxifolia* and eelgrass survey with their initial submittal. Project sites that contain eelgrass will also be required to perform a post-construction eelgrass survey to ensure that eelgrass has not been impacted during construction.

Essential Fish Habitat (EFH)- This notice initiates the EFH consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The project area is located in an area utilized by six species of fish managed by the National Oceanic and Atmospheric Administration Fisheries (NOAA) under two Fishery

Management Plans (FMPs)--the Coastal Pelagics and Pacific Groundfish Management Plans. Four of the five fish managed under the Coastal Pelagics FMP represented in San Diego Bay include northern anchovy, Pacific sardine, Pacific mackerel, and jack mackerel. Two of the three species managed under the Pacific Groundfish FMP and found in San Diego Bay include the California scorpionfish and the English sole. Initial determinations indicate that impacts to EFH or federally managed fisheries in California waters resulting from the proposed actions would be temporary and minimal due to the best management practices proposed by the applicant. The applicant proposes to install silt curtains during removal and installation of piles to prevent turbidity from migrating outside of the construction site. Additionally, the proposed RGP would only authorize projects that resulted in a decrease, no net change, or slight increases in shading due to construction methods, materials or compliance with Americans with Disabilities Act Standards.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent. The basic project purpose for the proposed project is vessel berthing. The project is water dependent.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to create a streamline process for authorizing the replacement of individual docks within the Cays HOA, Coronado CA.

Additional Project Information

Proposed Mitigation – Avoidance: The proposed RGP will only authorize the replacement of docks resulting in a decrease, no net change, or slight increases in shading due to construction methods, materials or compliance with Americans with Disabilities Act Standards. Projects that would have shading impacts to eelgrass would not be authorized by this RGP. Minimization: The applicant proposes to install silt curtains during removal and installation of piles to prevent turbidity from migrating outside of the construction site. Compensation: Due to the avoidance and minimization measures proposed by the applicant, no compensatory mitigation is proposed.

Proposed Special Conditions

The following list is comprised of proposed Permit Special Conditions, many of which are required of similar types of projects:

Section 10

1. The Permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the United States as defined by 33 C.F.R. Part 329.

2. The Permittee is authorized to replace existing docks within the Cays HOA. This Regional General Permit (RGP) shall only authorize dock replacement resulting in a decrease, no net change, or slight increases in shading due to construction methods, materials or compliance with Americans with Disabilities Act Standards. No dock replacement that includes expansions beyond that necessary to accommodate a boat or other modifications resulting in a change of the existing use of the facility are authorized by this (RGP).
3. No dredging is authorized by this RGP.
4. The installation of creosote treated pilings shall not be authorized by this RGP.
5. Each Applicant proposing to use the RGP shall provide a short pre-construction notification (PCN) for to the U.S. Army Corps of Engineers San Diego Section Office, (Corps) the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (FWS), and the California Department of Fish and Game (CDFG)) prior to the commencement of work. If no response is received from the Corps within 60 days from the date of the submittal, the Applicant may assume concurrence and proceed with the proposed activities as long as the work is in compliance with all other General and Special Conditions herein, except for work during nesting season, April 1 thru September 15 (please see Endangered Species Act Special Conditions below). Each PCN shall include:
 - a. Corps' RGP file number (200800645-KJC);
 - b. A short project description with figures and a text description including dimensions of pre- and post-construction structures;
 - c. A map of the structure location;
 - d. An eelgrass and *Caulerpa taxifolia* pre-construction survey;
 - e. A tentative work schedule including proposed work dates and length of in-water construction;
 - f. A statement regarding the use and availability of existing shading credits and compliance with all General and Special Conditions herein.
6. Each Applicant shall have a qualified biologist perform a pre-construction survey of the project area for *Caulerpa taxifolia* (Caulerpa). Each pre-construction Caulerpa survey shall be conducted in accordance with the Caulerpa Control Protocol (version 1.2b, adopted January 31, 2003, see <http://swr.nmfs.noaa.gov/hcd/caulerpa/ccp.pdf>) not earlier than 90 calendar days prior to planned construction. The results of that survey shall be provided to the Corps, NMFS, FWS, and CDFG for review with the PCN submittal described in Special Condition 5 above. In the event that Caulerpa is detected within the project area, the Applicant shall not commence work until such time as the infestation has been isolated, treated, and the risk of spread is eliminated as confirmed in writing by the Corps, in consultation with NMFS and CDFG.
7. Each Applicant shall have a qualified biologist perform a pre-construction eelgrass survey of the project area in accordance with NMFS Fisheries' *Southern California Eelgrass Mitigation Policy (revision 11)* dated July 31, 1991 (SCEMP) adopted by federal and state resource agencies. Each Applicant shall submit a report to the Corps, NMFS, FWS, and CDFG for review with the PCN submittal described in Special Condition 5 above.
8. Each Permittee shall have a qualified biologist perform a post-construction eelgrass survey of the project area in accordance with the SEMP if the pre-construction eelgrass survey documents the presence of eelgrass. The Permittee shall conduct the post-construction survey within 30 days of project completion and identify any eelgrass impacts resulting from construction. The Permittee shall provide a report to the Corps, NOAA, FWS, and CDFG within 15 days of performing the survey. The Permittee shall provide eelgrass mitigation in accordance with the SEMP for any eelgrass impacts identified by the post-construction survey. The mitigation plan for the post-construction impacts will be developed in consultation with the Corps, NOAA, FWS, and CDFG. The Permittee shall be aware that mitigation to offset eelgrass impacts must be initiated within 135 days from the date of initial

impact. Failure to begin mitigation within this period shall subject the applicant to an additional mitigation obligation that accrues at the rate of 7% per month.

9. No proposed projects with the potential for shading impacts to eelgrass shall be authorized by this RGP.

10. Prior to the onset of the authorized activity, the Permittee shall implement a contractor education program to ensure that all onsite personnel are informed of the biologically sensitive resources associated with the project site and compliance with all the General and Special Conditions herein. The Permittee shall provide all onsite personnel a copy of this permit, and require all onsite personnel to read, understand, and agree to this authorization in its entirety prior to initiation of the authorized activity.

11. The Permittee shall discharge only clean construction materials suitable for use in the oceanic environment. The Permittee shall ensure no debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the United States. Upon completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area. Excess material shall be recycled, if possible. All other materials or debris shall be disposed of in an appropriate upland site.

12. The Permittee shall notify the Commander, Eleventh Coast Guard District, and the Coast Guard, Sector San Diego not less than 14 calendar days prior to commencing work and as project information changes. The notification, either by letter, fax, or e-mail, shall include as a minimum the following information:

- a. Project description including the type of operation (i.e. dredging, diving, construction, etc).
- b. Location of operation, including Latitude / Longitude (NAD 83).
- c. Work start and completion dates and the expected duration of operations.
- d. Equipment and vessels involved in the operation (name, size and type).
- e. VHF-FM radio frequencies monitored by vessels on scene.
- f. Name of company, point of contact, and 24 hour phone number.
- g. Potential hazards to navigation.
- h. Chart number for the area of operation.

Addresses:

Commander, 11th Coast Guard District (dpw)
Coast Guard Island, Building 50-2
Alameda, CA 94501-5100
ATTN: Local Notice to Mariners
TEL: (510) 437-2970, (510) 437-2986
FAX: (510) 437-3423
Email: d11lnm@uscg.mil

U.S. Coast Guard
Sector San Diego
2710 N. Harbor Dr.
San Diego, CA 92101
Attn: Waterways Management Division
TEL: (619) 278-7262
FAX: (619) 278-7279

13. The Permittee and his or her contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. The Permittee shall ensure his or her contractor notifies the Eleventh Coast Guard District in writing, with a copy to the Corps, not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation which requires relocation or removal. Should any federal aids to navigation be affected by this project, the Permittee shall submit a request, in writing, to the Corps as well as the U.S. Coast Guard, Aids to Navigation office at the Coast Guard address in Alameda, CA in Condition 12, Attn: Operations Officer. For questions, the Aids to Navigation office can be contacted at (510) 437-2976. The Permittee and his or her contractor are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps and the U.S. Coast

Guard.

14. Should the Permittee determine the work requires the placement and use of private aids to navigation in navigable waters of the U.S., the Permittee shall submit a request in writing to the Corps as well as the U.S. Coast Guard, Aids to Navigation office at the Coast Guard address in Alameda, CA in Condition 12, Attn: Mr. Brian Aldrich. For questions regarding private aids to navigation Mr. Aldrich can be contacted at (510) 437-2983. The Permittee is prohibited from establishing private aids to navigation in navigable waters of the U.S. until authorized to do so by the Corps and the U.S. Coast Guard.

15. Upon notification to the U.S. Coast Guard as specified in Special Condition 12, the Permittee shall forward a copy of the notification to the Coast Guard Chief, Waterways Management. The Chief, Waterways Management may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The Permittee shall direct questions concerning lighting, equipment placement, and mooring to the Chief, Waterways Management at (619) 278-7261 or -7262.

16. The Permittee shall install and maintain, at his or her own expense, any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on his or her authorized facilities. The Coast Guard may be reached at the San Diego address and telephone number from Condition 12 above.

17. The Permittee shall install a boom and silt curtain around the project area where pile installation and removal will occur prior to these activities to control any debris and turbidity. The silt curtain shall remain in place until all pile removal and installation activities have been completed. The silt curtain shall be delineated on all related project figures.

18. The Permittee shall monitor turbidity plumes generated by pile removal and installation activities on a continuous basis. All turbidity generated by these construction and demolition activities shall be contained within the confines of the silt curtain that has been employed. For the purpose of monitoring, turbidity shall be defined as any change in the ambient condition of the clarity of the water column visible to the naked eye. No visible turbidity shall be seen outside the perimeter of the silt curtain. If visible turbidity is observed outside the perimeter of the silt curtain, the Permittee shall temporarily suspend or immediately modify their operations so they are in compliance with this condition herein.

19. The Permittee shall ensure that all vessel operators have a marine band radio, monitor Channel 16, and follow navigation rules (rules of the road) at all times.

20. The Permittee shall mark with buoys any underwater cables or anchoring systems for vessels involved with the project proposed herein.

21. Within 30 calendar days of completion of each project authorized by this RGP, the Permittee shall conduct a post-project survey indicating changes to structures and other features in navigable waters. The Permittee shall forward a copy of the survey the National Oceanic and Atmospheric Service for chart updating: Gerald E Wheaton, National Oceanic and Atmospheric Administration, Regional Manager, West Coast and Pacific Ocean, DOD Center Monterey Bay, Room 5082, Seaside, CA 93955-6711.

22. The Cays' HOA shall have a third party maintain a ledger of each individual dock replacement with the change in size of each structure that has been replaced with a total of shading debits/credits to date. This ledger is necessary to insure that the use of the RGP maintains a net-zero shading increase.

23. The Cays' HOA shall provide a quarterly report of work done pursuant to this RGP to the Corps, NMFS, FWS, and CDFG by the 30th of March, June, September, and December of each year. The quarterly summary

shall include an accounting of the overall change in overwater coverage and summaries of both completed and planned projects.

24. The Permittee shall allow Corps representatives to inspect the authorized activities at any time deemed necessary to ensure compliance with permit terms and conditions.

25. The Permittee understands and agrees that, if future operations by the United States require the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Endangered Species Act:

1. This Corps permit does not authorize you to take any threatened or endangered species, in particular the California least tern (*Sterna antillarum browni*), the brown pelican (*Pelecanus occidentalis*) and the green sea turtle (*Chelonia mydas*) or adversely modify its designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The FWS and NMFS are the appropriate authorities to determine compliance with the ESA.

2. During nesting season, from April 1 to September 15, the Permittee shall only jet piles in place to reduce the potential for noise impacts. As stated above, the Permittee shall install a silt curtain during removal and installation of piles to prevent turbidity and debris from leaving the project area. This condition is necessary to avoid potential impacts to the California least tern and the green sea turtle. California least tern are known to forage throughout San Diego Bay during nesting season. Green sea turtles become more active during the summer months and may be found in the vicinity of proposed project sites.

3. If an Applicant proposes to work during the California least tern nesting season, the Applicant shall notify the Corps, FWS, NMFS, and CDFG at least 60 days prior to the start of each construction project to allow the FWS, NMFS, or CDFG to provide project-specific comments. The Applicant shall provide the Corps, FWS, NMFS, and CDFG with the notification information required in Special Condition 5 above. The Permittee shall not begin work until receiving written concurrence from the Corps before starting in-water construction.

4. The Permittee shall perform a visual scan of the areas visible around the project site prior to commencing pile-driving activities. The Permittee shall not begin pile-driving activities at any location if any green sea turtles, marine mammals, or brown pelican are located within the visual scan radius (area) of the authorized activities. If a green sea turtle, marine mammal, or brown pelican is observed within the safe zone prior to the start of pile-driving, the Permittee shall wait 15 minutes once the animal has left the area before beginning pile-driving activities. If a green sea turtle or marine mammal moves within the area after pile driving has begun, the Permittee shall continue pile-driving activities without interruption. If the intensity of the pile-driving activity needs to be increased and a green sea turtle or marine mammal is in the area of the activity, the Permittee shall use a ramp-up procedure. This procedure involves a slow increase in the intensity of pile driving. This condition is necessary to avoid impacts to green sea turtles, marine mammals, or brown pelican that may utilize habitat in the vicinity of the proposed project.

5. At the start of pile driving for each pile at all locations, the Permittee shall strike the pile once with the hammer and allow a delay prior to the second pile strike long enough to permit adequate time for any green sea

turtles, marine mammals, or brown pelican within the visual scanned area to leave prior to the start of sustained pile-driving activities.

6. The Permittee shall contact Ms. Kari Coler of the Corps at (858) 674-6783 and the NOAA Fisheries Stranding Coordinator Mr. Joseph Cordaro at (562) 980-4017 immediately in the event of a watercraft collision with a marine mammal or sea turtle.

Cultural Resources:

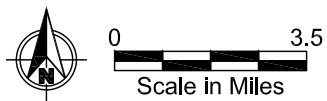
1. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Archeology Staff within 24 hours (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps re-authorizes project construction, per 36 C.F.R. section 800.13.

For additional information please call Kari Coler of my staff at 760-602-4834 or via e-mail at Kari.J.Coler@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.

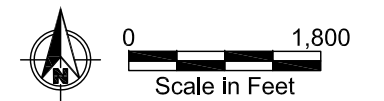
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Oct 20, 2008 4:04pm heriksen



Location Map



Project Area



Note: Aerials from Google Earth Pro, 2007.

CORONADO CAYS SPECIFIC PLAN MAP

Zones



City of Coronado

San Diego Port District
Jurisdiction

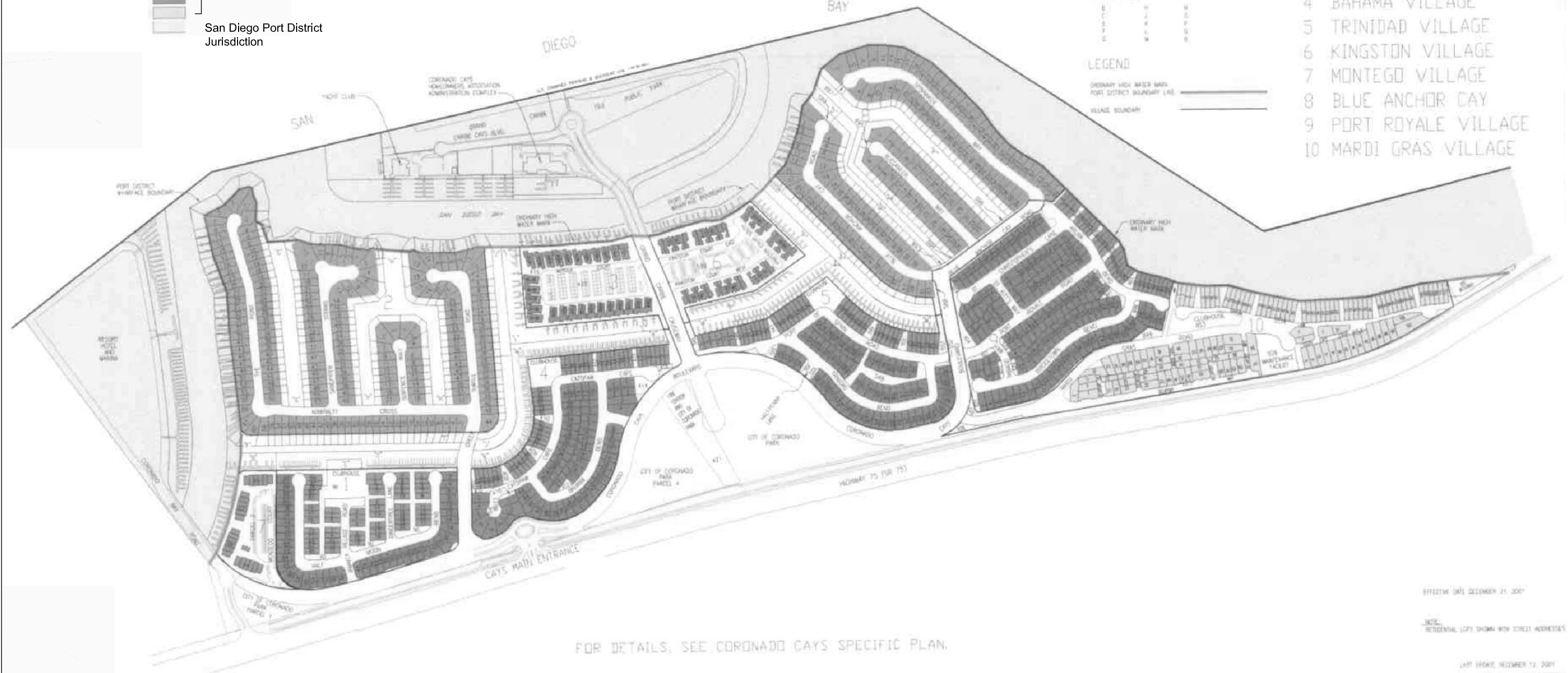
CITY OF CORONADO
PUBLIC WATERWAY AND
WHARFAGE PARCELS



LEGEND

ORDINARY HIGH WATER MARK
PORT DISTRICT BOUNDARY LINE
VILLAGE BOUNDARY

- 1 JAMAICA VILLAGE
- 2 GREEN TURTLE CAY
- 3 ANTIGUA VILLAGE
- 4 BAHAMA VILLAGE
- 5 TRINIDAD VILLAGE
- 6 KINGSTON VILLAGE
- 7 MONTEGO VILLAGE
- 8 BLUE ANCHOR CAY
- 9 PORT ROYALE VILLAGE
- 10 MARDI GRAS VILLAGE



FOR DETAILS, SEE CORONADO CAYS SPECIFIC PLAN.

EFFECTIVE DATE: DECEMBER 21, 2007

NOTE:
RESIDENTIAL LOTS SHOWN WITH STREET ADDRESSES

LAST UPDATE: DECEMBER 12, 2007



Not to Scale



Note: Aerial image from Google Earth Pro, 2007.



Property Locations with Observed Eelgrass



0 1/4
Scale in Miles